

### REMARKS

In order to ensure full consideration of the amendments contained herein, Applicant is submitting herewith a Request for Continued Examination. In response to the provisional double patenting rejections, Applicant repeats herein that it is willing to consider the necessity of a terminal disclaimer upon an indication of allowable subject matter in the present application.

In the most recent Office Action, the Examiner has repeated the rejection of all of the claims as being anticipated by one or more of the Zamansky, Rolfe, Kerley and/or Aradi references. In response to the arguments of Applicant submitted on March 13, 2006, the Examiner is now stating that each of the Zamansky, Rolfe, Kerley and Aradi references anticipates every claim based on the theory of inherency. According to the Examiner, Zamansky, Rolfe, Kerley and Aradi each teach compositions containing the same components in the same proportions as recited by the instant claims, and these compositions are used in the same environment as those of the instant claims. Accordingly, the prior art inherently teaches the disputed limitations.

For one or more of the following reasons, and further in view of the foregoing amendments, Applicant submits that the rejections are traversed. Favorable action is requested hereon.

At the outset, Applicant notes that it has amended the claims to limit those claims to methods where the manganese compound is used with a treat rate of at least 20 ppm of the coal that is combusted. This treat rate was initially claimed in dependent claims 7 and 17. The ranges now set forth in the claims are disclosed and taught in the specification on Page 8, Lines 6-8 of the

detailed description. Applicant is focusing in these claims on the use of a relatively high treat rate of manganese compound in order to obtain the benefits of reduction in the amount of carbon in fly ash, amount of NOx, and amount of carbon monoxide resulting from the combustion of coal. The treat rate of 20 ppm is the treat rate used in the actual testing that supported the present application as described in the example beginning on page 8 of the specification.

Turning now to the current rejections, the Examiner has explicitly stated that the basis for the anticipation rejection for all four of Zamansky, Rolfe, Kerley and Aradi is that those references inherently teach the claim limitations. In order to establish that a particular feature or result is inherent, the Federal Circuit Court of Appeals has stated that the inherent feature or result must be consistent, necessary, and inevitable, not merely possible or probable. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. In re Robertson, 169 F.3d 743, 745 (Fed. Cir. 1999). Applicant submits that none of the references inherently anticipate the claimed invention - at best the references merely suggest or teach that the claimed reductions are merely possible or probable.

Applicant submits that the now-claimed invention is not inherently or otherwise disclosed in any of the four cited references. Each of those references will be discussed in turn.

First, Applicant concedes that Zamansky discusses the use of metal-containing additives with stationary combustion systems. In fact, the specific metal additive of manganese is referenced. However, Zamansky nowhere discloses the actual use of manganese in any example. Further, there is no

discussion with respect to reducing carbon in ash as a benefit of improved combustion. Finally, there is no disclosure with respect to a reduction in carbon monoxide. Therefore, although Zamansky teaches that manganese might be effective for the purposes disclosed therein, there is no disclosure of the claimed invention. It is only possible or probable to obtain the claimed reductions. Further, there is no actual combustion of any manganese compound that would inherently result in the claimed method. Rejection based on inherency in the Zamansky reference is not supported. The rejection is traversed.

Second, Rolfe discloses the use of manganese in a composition and method for reducing air pollutants. There is no teaching or disclosure of a reduction in carbon in ash. However, as noted in Rolfe itself, the disclosed use of the manganese-compound is in amounts ranging between 8 and 15 ppm. See, for instance, Column 6, Lines 27-31 and Example 20, Column 10. This treat rate is below the now-claimed treat rate of at least 20 ppm. The difference between the highest treat rate number taught in Rolfe and the now claimed treat rate is a 33 percent increase over the maximum in Rolfe. This is a significant difference. There is no other example or teaching in Rolfe that supports an inherent disclosure of the present invention. The rejection is traversed.

Third, the Kerley reference discusses the use of a manganese compound in the combustion of coal. However, there is no discussion with respect to reduction of carbon in ash, NO<sub>x</sub>, or carbon monoxide. Importantly, the actual examples disclosed in Kerley include a treat rate of less than 6 ppm of manganese in the coal. The difference is substantial between the actual

examples of Kerley and the now claimed invention. Therefore, there can be and is no inherent disclosure or teaching in Kerley of the claimed invention. The rejection is traversed.

Finally, the Aradi reference does not contain disclosure of the reduction of NO<sub>x</sub>, carbon in ash, or carbon monoxide. Instead, Aradi discusses the inhibition of low and high temperature corrosion in various furnace systems. Importantly, there is no actual example or other teaching of the use of the manganese compound with the combustion of coal. Therefore, there is no inherent or other disclosure of the present invention therein. The rejection is traversed.

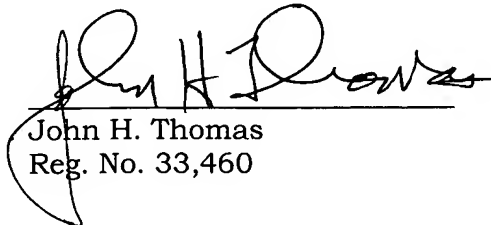
As is evident from the foregoing, the now-claimed invention that includes a treat rate of at least 20 ppm of manganese in the coal is nowhere disclosed or otherwise taught in the cited references. Therefore, any argument of inherency is not supported in those references. The rejection is respectfully traversed.

Applicant submits that the claims are now in condition for allowance. Favorable action is requested hereon.

The Commissioner is hereby authorized to charge any deficiencies in payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-2127.

Date: August 25, 2006

Respectfully submitted,



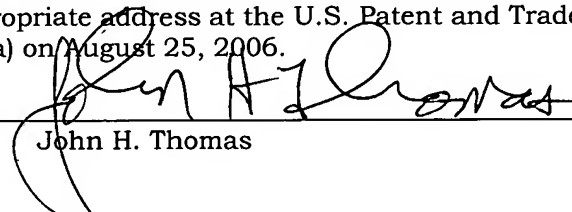
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#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the appropriate address at the U.S. Patent and Trademark Office required under 37 C.F.R. § 1.1(a) on August 25, 2006.

by: \_\_\_\_\_



John H. Thomas